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7 ATTORNEYS FOR DEFENDANT  
8 ROBERT KINCADE

9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 ROBERT KINCADE, et al.,

15 Defendants.  
16  
17  
18  
19

CASE NO. 2:15-cr-00071-JAD-GWF

**STIPULATION AND ORDER TO  
CONTINUE CALENDAR CALL AND  
TRIAL DATE AS TO COUNT ONE  
OF THE SUPERSEDING  
INDICTMENT ONLY AND TO  
RESET PRE-TRIAL MOTION  
DEADLINE**

**[EIGHTH REQUEST]**

20 IT IS HEREBY STIPULATED AND AGREED, by and between Alexandra Michael,  
21 Assistant United States Attorney, counsel for the United States of America, and Robert Kincade, and  
22 his counsel Kevin R. Stolworthy, that the calendar call currently scheduled for March 20, 2017 at the  
23 hour of 1:30 p.m. and the trial currently scheduled for March 28, 2017 at the hour of 9:00 a.m. as to  
24 Count One of the Superseding Indictment, be vacated and set to a date and time convenient to this  
25 Court approximately (120) days from the currently scheduled deadlines. The Parties further agree  
26 that the pre-trial motion deadline as to County One of the Third Superseding Indictment, which  
27 technically expired on December 28, 2016, shall be reset to (45) days from the date of entry of the  
28 Order approving this Stipulation. This Stipulation is entered into for the following reasons:

1           1.       On January 5, 2017, Kevin Stolworthy, Esq. was appointed as counsel of record for  
2 Mr. Kincade with respect to Count One only of the Third Superseding Indictment in this case. ECF  
3 No. 243.

4           2.       Count One pertains to an alleged September 12, 2011 robbery of a City National Bank  
5 in Las Vegas, Nevada.

6           3.       Mr. Kincade is currently being represented by Kathleen Bliss, Esq, on the remaining  
7 Counts contained in the Superseding Indictment.

8           4.       Count One has been severed from the remaining Counts contained in the Third  
9 Superseding Indictment, and trial is currently scheduled for Count One only on March 28, 2017 at  
10 9:00 a.m. ECF No. 214.

11          5.       Trial is scheduled on the remaining Counts on February 28, 2017 at 9:00 a.m. ECF  
12 No. 165.

13          6.       As Mr. Stolworthy was just recently appointed in this case, the file from former  
14 counsel Todd Leventhal, Esq. was just turned over.

15          7.       Mr. Stolworthy has not had the opportunity yet to closely examine the file, and  
16 evaluate the need to retain professionals, such as an investigator, and whether pre-trial motions need  
17 to be filed in this case.

18          8.       The Parties have agreed to reset the pre-trial motion deadline as to Count One of the  
19 Third Superseding Indictment to 45 days from the date of entry of the Order approving this  
20 Stipulation.

21          9.       At the hearing on January 5, 2017, it was discussed on the record that the current trial  
22 date would need to be continued as to Count One, the Defendant was made aware of the need for a  
23 continuance, and the Government's counsel stated no opposition to the continuance. ECF No. 243.

24          10.       The additional time requested does not impact the trial setting as to Counts Two and  
25 Three of the Third Superseding Indictment.

26          11.       The additional time requested will enable counsel to become familiar with the file and  
27 evaluate a defense for Kincade as to Count One of the Third Superseding Indictment.

28          12.       Denial of this request for continuance would deny counsel for the Defendant sufficient

1 time to effectively and thoroughly complete trial preparations, taking into account the exercise of due  
2 diligence.

3 13. Denial of this request for continuance could result in a miscarriage of justice.

4 14. Counsel for the Defendant has a trial scheduled in a civil matter in Reno, Nevada in  
5 May, 2017, and that trial is anticipated to last approximately 5 weeks. The additional time requested  
6 will help to ensure that counsel does not have a conflict with trial.

7 15. The Parties agree to the continuance.

8 16. The Defendant is incarcerated and does not object to the continuance.

9 17. The additional time requested herein is not sought for purposes of delay.

10 18. The additional time requested by this Stipulation is excludable in computing the time  
11 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United  
12 States Code, Section 3161(h)(7) and Title 18, United States Code, Section 3161(h)(7)(A),  
13 considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B) and  
14 3161(h)(7)(B)(iv).

15  
16 DATED January 30, 2017

DATED January 30, 2017

17 DANIEL BOGDEN  
18 United States of America

ARMSTRONG TEASDALE LLP

19 By: /s/Alexandra Michael  
20 ALEXANDRA MICHAEL  
21 Assistant U.S. Attorney  
Counsel for the Plaintiff

By: /s/Kevin R. Stolworthy  
KEVIN R. STOLWORTHY  
Counsel for Defendant  
Robert Kincade

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
ROBERT KINCADE, et al.,  
  
Defendants.

CASE NO. 2:15-cr-00071-JAD-GWF

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER**

**FINDINGS OF FACT**

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. On January 5, 2017, Kevin Stolworthy, Esq. was appointed as counsel of record for Mr. Kincade with respect to Count One only of the Third Superseding Indictment in this case. ECF No. 243.

2. Count One pertains to an alleged September 12, 2011 robbery of a City National Bank in Las Vegas, Nevada.

3. Mr. Kincade is currently being represented by Kathleen Bliss, Esq, on the remaining Counts contained in the Superseding Indictment.

4. Count One has been severed from the remaining Counts contained in the Third Superseding Indictment, and trial is currently scheduled for Count One only on March 28, 2017 at 9:00 a.m. ECF No. 214.

5. Trial is scheduled on the remaining Counts on February 28, 2017 at 9:00 a.m. ECF No. 165.

6. As Mr. Stolworthy was just recently appointed in this case, the file from former counsel Todd Leventhal, Esq. was just turned over.

7. Mr. Stolworthy has not had the opportunity yet to closely examine the file, and evaluate the need to retain professionals, such as an investigator, and whether pre-trial motions need

1 to be filed in this case.

2 8. The Parties have agreed to reset the pre-trial motion deadline as to Count One of the  
3 Third Superseding Indictment to 45 days from the date of entry of the Order approving this  
4 Stipulation.

5 9. At the hearing on January 5, 2017, it was discussed on the record that the current trial  
6 date would need to be continued as to Count One, the Defendant was made aware of the need for a  
7 continuance, and the Government's counsel stated no opposition to the continuance. ECF No. 243.

8 10. The additional time requested does not impact the trial setting as to Counts Two and  
9 Three of the Third Superseding Indictment.

10 11. The additional time requested will enable counsel to become familiar with the file and  
11 evaluate a defense for Kincade as to Count One of the Third Superseding Indictment.

12 12. Denial of this request for continuance would deny counsel for the Defendant sufficient  
13 time to effectively and thoroughly complete trial preparations, taking into account the exercise of due  
14 diligence.

15 13. Denial of this request for continuance could result in a miscarriage of justice.

16 14. Counsel for the Defendant has a trial scheduled in a civil matter in Reno, Nevada in  
17 May, 2017, and that trial is anticipated to last approximately 5 weeks. The additional time requested  
18 will help to ensure that counsel does not have a conflict with trial.

19 15. The Parties agree to the continuance.

20 16. The Defendant is incarcerated and does not object to the continuance.

21 17. The additional time requested herein is not sought for purposes of delay.

22 18. The additional time requested by this Stipulation is excludable in computing the time  
23 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United  
24 States Code, Section 3161(h)(7) and Title 18, United States Code, Section 3161(h)(7)(A),  
25 considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B) and  
26 3161(h)(7)(B)(iv).

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28 ///

**CONCLUSIONS OF LAW**

The additional time requested herein is not sought for purposes of delay.

**ORDER**

IT IS THEREFORE ORDERED that the calendar call currently scheduled for March 20, 2017 at the hour of 1:30 p.m. be vacated and continued to July 31, 2017, at the hour of 1:30 p.m.

the trial currently scheduled for March 28, 2017 at the hour of 9:00 a.m. be vacated and continued to August 8, 2017, at the hour of 9:00 a.m.

IT IS FURTHER ORDERED that the pre-trial motion deadline be reset to 45 days from the entry of this Order, which is March 20, 2017. Any and all responses due by April 3, 2017. Any and all replies due by April 10, 2017.

DATED this 3rd day of February, 2017.

  
UNITED STATES DISTRICT JUDGE